

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ADRIANE HENDERSON,

Defendant-Appellant.

UNPUBLISHED

September 10, 2009

No. 286534

Wayne Circuit Court

LC No. 07-010552

Before: M. J. Kelly, P.J., and K. F. Kelly and Shapiro, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from a sentence of 19 months to 15 years imposed after his plea-based conviction of second-degree home invasion, MCL 750.110a(3). Because we conclude that defendant's only issue on appeal is moot, we dismiss the appeal.

Defendant pleaded guilty under an agreement that included a provision that specified that defendant would be sentenced to "MDOC or Salvation Army (1 year)" with other terms to be set by the court. The parties appeared to agree at sentencing that the agreement called for a prison sentence within the sentencing guidelines range or for one year at the Salvation Army if a one-year sentence was within the guidelines range. Defendant contends on appeal that the sentence agreement required either a minimum sentence of one year in prison or assignment to the Salvation Army for one year and asks that the case be remanded for imposition of a prison sentence of one to 15 years. We decline to decide this issue. Defendant has fully served the 19-month minimum sentence imposed by the trial court and has been paroled from prison. Therefore, the issue is moot. *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994).

Dismissed as moot.

/s/ Michael J. Kelly

/s/ Kirsten Frank Kelly

/s/ Douglas B. Shapiro